

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 ROGER BASILE, . Docket No.  
4 Plaintiff, . 2:20-CV-00576-EK-LB  
5 v. .  
6 COUNTY OF NASSAU, ET AL., . Brooklyn, New York  
7 Defendants. . Tuesday, April 16, 2024  
8 . . . . . 4:08 p.m.

9 TRANSCRIPT OF STATUS CONFERENCE  
10 BEFORE THE HONORABLE ERIC R. KOMITEE  
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

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1 P R O C E E D I N G S

2 THE COURTROOM DEPUTY: Civil cause for status  
3 conference docket number 20-cv-576, Basile versus County of  
4 Nassau, et al.

5 Counsel, please state your appearances for the  
6 record beginning with Plaintiff's counsel?

7 MR. RICKNER: Rob Rickner for the plaintiff. Good  
8 afternoon, Your Honor.

9 MR. ROPER: Good afternoon, Your Honor. Justin  
10 Roper also for the plaintiff.

11 THE COURT: Good afternoon.

12 MR. REISSMAN: Deputy County Attorney Rob Reissman  
13 for the defendants.

14 Go ahead, Judge.

15 MR. ADAMS: Retired Judge Thomas Adams, county  
16 attorney, Nassau County.

17 THE COURT: Good afternoon.

18 MR. TODD: Christopher Todd for the police  
19 department, Your Honor. Good afternoon.

20 THE COURT: For the police department meaning --

21 MR. TODD: I'm the Deputy Bureau Chief of the Legal  
22 Bureau.

23 THE COURT: Of the Nassau County --

24 MR. TODD: Yes, Your Honor.

25 THE COURT: -- Police Department. Okay.

1 MR. TODD: Yeah.

2 THE COURT: So not with the County Attorney's  
3 Office?

4 MR. TODD: Correct.

5 THE COURT: All right. Good to know. Thank you  
6 all for being here. Obviously, it's not the usual course of  
7 action to ask that a supervisor attend a court appearance let  
8 alone the county attorney himself. We were going down a path  
9 that it seemed likely to me involves a potential violation,  
10 and I would say a potential egregious violation of the rules  
11 of professional responsibility by the county attorney's  
12 office, and so I thought it would be -- well, and my first  
13 reaction to that was to put up an order asking the county  
14 attorney's office to take a position on whether that issue  
15 was real or not real in light of the possibility that it may  
16 have been missed. And your office then took a position that  
17 seemed obviously incorrect to me, and I just wanted to make  
18 sure I understood who was in the loop here and what level of  
19 thought was going into that position.

20 I know your office has since backed off that  
21 position at least in part. I was not clear until we got here  
22 today what that meant in terms of who would be representing  
23 the individual defendants going forward.

24 Mr. Todd, have you entered an appearance in this  
25 case?

1 MR. TODD: I have not, Your Honor. No.

2 THE COURT: But you're reportedly here to represent  
3 the individuals or what --

4 MR. TODD: The department not the individuals.

5 THE COURT: The police department?

6 MR. TODD: Yes, Your Honor.

7 THE COURT: Okay. Which is not a party nor even a  
8 suable entity, I would assume.

9 MR. TODD: I was advised to appear by Mr. Reissman  
10 as counsel for the department.

11 THE COURT: We'll think of you as being here as an  
12 observer for the moment notwithstanding you having stated  
13 your appearance. But that's why we're here is we need to  
14 sort out --

15 And Mr. Adams, you understand the ethical violation  
16 I'm describing?

17 MR. ADAMS: Well, Mr. Reissman has described the  
18 rejection, so I would like -- he has spent hours on this, and  
19 he's come to another conclusion. I'd like to have him  
20 express the -- what he's come up with.

21 THE COURT: Please.

22 MR. REISSMAN: Yes, Your Honor. Jury issued a  
23 verdict on November 2nd, 2023, which, at first glance, seemed  
24 very odd and inexplicable. And since that time -- well, let  
25 me just take it one step at a time, right? I knew something

1 was wrong. I immediately made a knee-jerk reaction --

2 THE COURT: So Mr. Adams teed this up as you being  
3 about to share a new conclusion with us.

4 MR. REISSMAN: Yeah.

5 THE COURT: If you're going to argue that --

6 MR. REISSMAN: Would you like me to get to that  
7 conclusion?

8 THE COURT: If you're going to argue that the jury  
9 rendered an inconsistent verdict, I think I've --

10 MR. REISSMAN: No. I did not.

11 THE COURT: -- had that argument.

12 MR. REISSMAN: I never raised that issue.

13 THE COURT: Okay.

14 MR. REISSMAN: All right.

15 THE COURT: Can you just tell me what is the  
16 conclusion that you're about to share with me and --

17 MR. REISSMAN: The current motion, which I filed  
18 last night, the amended motion, seeks an order under Federal  
19 Rule of Civil Procedure 59(e) for the Court to  
20 issue -- deliberate and issue a decision on the County's  
21 motion to amend or alter the jury's verdict to dismiss the  
22 County as a defendant. The County does not -- does no longer  
23 move to vacate the verdict, and the County no longer moves  
24 to -- for a new trial under Rule 60. So the only issue  
25 before the Court in the papers filed last night is, will the

1 Court grant the County's motion to alter or amend the verdict  
2 and dismiss the County from the action?

3 THE COURT: I haven't read your motion since it  
4 came in, I think, fairly late last night. It didn't land on  
5 my desk until this morning. Is the basis the same, the  
6 ostensibly -- the ostensible inconsistency of the verdict?

7 MR. REISSMAN: No, Your Honor. My conclusion -- I  
8 must admit I must have spoken in the last three months to  
9 about 15 attorneys, and everybody came up with a different  
10 issue, a different way to look at it. And I must credit Mr.  
11 Rickner in his April 10th letter for finally opening my eyes  
12 to the conflict, and which I realize -- now realize I was  
13 confused, and a lot of people I talked to were confused. But  
14 now I realize the conflict that I earlier took, and I now  
15 express to the Court my apologies for my ignorance, but I  
16 think I've learned a lesson.

17 THE COURT: Did you read the case that I cited in  
18 my order? Because I'm not sure Mr. Rickner's later  
19 submission -- not to insult Mr. Rickner's legal abilities,  
20 but I think I laid out pretty much the exact same argument,  
21 and then you came back and said, "No, we don't see a  
22 conflict."

23 MR. REISSMAN: Yes. You did, but I didn't  
24 understand why there was a conflict. I must admit I did  
25 not -- I didn't see why there was a conflict until Mr.

1 Rickner -- you actually -- you're accurate. You said that  
2 there was a conflict. I didn't understand why there was a  
3 conflict, but Mr. Rickner's April 10th letter put it out  
4 black and white.

5 THE COURT: Did you read the case that we cited in  
6 the Court's order?

7 MR. REISSMAN: I did, and I know you -- yeah. You  
8 said you can't -- we can't split the verdict. You can't take  
9 part of the verdict. You have to either have both -- all  
10 defendants in or no defendants in. You can't split the  
11 verdict. But I didn't fully appreciate the problem that was  
12 presented by Your Honor.

13 And so I came to the conclusion, based on Mr.  
14 Rickner's explanation that Your Honor's actually right. I  
15 now understand why there was a conflict. Therefore, I filed  
16 a realized motion last night after consultation with Judge  
17 Adams and the Seat Deputy County Attorney, my bureau chief,  
18 and Mr. Todd, the Deputy Bureau Chief of the Legal Bureau,  
19 and we all came to the same conclusion that the new motion,  
20 which was filed last night, does not prejudice or conflict  
21 with the interest of the two detectives who were dismissed  
22 from the case, does not involve them going forward. They  
23 were dismissed from the case. The only remaining defendant  
24 is the County of Nassau, and the new motion seeks only to  
25 amend or alter the verdict to dismiss the County of Nassau.

1                   THE COURT: Okay. Have you re-read the jury  
2 instructions in this case --

3                   MR. REISSMAN: Many times.

4                   THE COURT: -- since the verdict?

5                   MR. REISSMAN: Many times.

6                   THE COURT: Have you read instruction 17?

7                   MR. REISSMAN: Many times. It's right here in my  
8 brief.

9                   THE COURT: Okay. Do you have the instruction in  
10 front of you?

11                  MR. REISSMAN: Yes. I do. Yes. I have it on my  
12 brief at page 4, in its entirety.

13                  THE COURT: Okay. So take a look, if you would,  
14 then at instruction number 4.

15                  MR. REISSMAN: Well, I'm looking at instruction  
16 17 --

17                  THE COURT: Sorry, instruction 17.

18                  MR. REISSMAN: -- on New York State Battery. I'm  
19 sorry.

20                  THE COURT: Yeah.

21                  MR. REISSMAN: I don't have the entire set of jury  
22 instructions.

23                  THE COURT: Tell me if you have the part that I'm  
24 about to read after I read it. So I'm just going to read the  
25 final paragraph. If you do not find unanimously, right,

1 because the instructions required a unanimous verdict.

2                 "If you do not find by a preponderance of the  
3 evidence that Detective Lashinsky is liable on Mr. Basile's  
4 excessive force claim or unanimously by a preponderance of  
5 the evidence that Detective Perkins is liable on the  
6 excessive force claim, you must consider whether Mr. Basile  
7 has demonstrated by a preponderance of the evidence that at  
8 least one of them used excessive force. In that case, you  
9 must be unanimous in your determination that an officer used  
10 excessive force against the plaintiff, even if you are not  
11 unanimous as to which officer did. If you make such a  
12 finding, you must find Nassau County alone liable for the  
13 battery." And the excessive force instruction calls out to  
14 this one as well, so this applied, I think, both to the  
15 federal and the state claims. You didn't object to that jury  
16 instruction, right?

17                 MR. REISSMAN: Well, I do recall a very large  
18 amount of discussion about the instruction. We had a lot of  
19 back and forth. And I think the problem, as Your Honor  
20 expressed in the instruction, was that the jury -- in order  
21 to find the county liable --

22                 THE COURT: Sorry. I'm asking a very simple --

23                 MR. REISSMAN: Go ahead.

24                 THE COURT: -- yes or no question here. Was that  
25 instruction given over your objection or not?

1 MR. REISSMAN: Not.

2 THE COURT: Okay.

3 MR. REISSMAN: Ultimately not.

4 THE COURT: Correct.

5 MR. REISSMAN: Correct.

6 THE COURT: You did not object to that instruction?

7 MR. REISSMAN: No. I did not.

8 THE COURT: That thing that I told the jury in that  
9 final paragraph they could do, i.e., if they were not  
10 unanimous as to which officer committed the battery, but they  
11 were unanimous that an officer committed the battery,  
12 right -- let's say, of the, you know, eight people on the  
13 jury, seven of them thought it was Lashinsky and one of them  
14 thought it was Perkins, but they were unanimous that one of  
15 the two committed battery, they would have to hold both  
16 officers not liable, right, because they weren't unanimous on  
17 which officer committed the battery, but they would have to  
18 hold the County liable. That's exactly what they did, right?

19 MR. REISSMAN: They found Detective Lashinsky did  
20 not commit battery. They found Detective Perkins did not  
21 commit a battery. But they held the County liable for \$4.5  
22 million under theory of respondeat superior, which is really  
23 not -- in my understanding is not a correct application of  
24 the law.

25 THE COURT: But it is a correct application of

1 these instructions? Forget about the law for a moment. I  
2 think you're wrong about the law. But just look at the  
3 instruction and tell me whether this is exactly what they  
4 did.

5 MR. REISSMAN: Yes. "You must be unanimous in your  
6 verdict that an officer used excessive force, even if you are  
7 not unanimous in your understanding of which officer did. If  
8 you make such a finding, you must find Nassau County alone  
9 liable for battery." Yes. That is --

10 THE COURT: Correct. This paragraph describes the  
11 precise path by which the jury would hold neither officer  
12 liable for excessive force in violation of section 19(a)(3)  
13 or battery under state law and nevertheless hold the county  
14 liable, right there in black and white in the jury  
15 instructions. Now you're telling me that having done exactly  
16 what the jury instructions expressly authorized the jury to  
17 do, the jury verdict should be thrown out because it is  
18 somehow internally inconsistent or because -- I mean, if  
19 you're just saying the evidence was insufficient to sustain  
20 the verdict, then fine.

21 But to the extent we're still -- and I'm just  
22 looking at the point items in your new brief, point 2, "Cases  
23 holding municipalities liable under respondeat superior even  
24 in the absence of unidentified employees are inapplicable to  
25 this case." I take it -- well, I'm not sure what I take that

1 to mean, but it seems like you mean that the jury was  
2 required to identify a particular employee whose conduct gave  
3 rise to respondeat superior liability. And if that's what  
4 you're arguing, that would be obviously dramatically  
5 inconsistent with the jury instructions to which you agreed.  
6 So we're not going to argue the merits of your motion right  
7 now. I'm just going to say that I don't understand the basis  
8 for it and leave it at that for now. Maybe when I read this  
9 motion in its entirety, I'll feel differently.

10 I think we have to chart the path forward in this  
11 case, so to the extent -- you know, until this motion came in  
12 last night, you were asking for relief that would've directly  
13 harmed two of your clients. Do you still represent the  
14 individual officers, or has that representation been  
15 terminated? Let's start with that question.

16 MR. REISSMAN: The officers are no longer  
17 defendants in this case. I don't represent. I mean, I  
18 represent them as Nassau County Attorney's Officer represents  
19 all our police officers, who are indemnified, but these  
20 defendants are no longer defendants in this case. The only  
21 defendant remaining in this case --

22 THE COURT: When did they cease to be defendants in  
23 this case?

24 MR. REISSMAN: When the jury issued its verdict.

25 THE COURT: Soon as the verdict came back?

1 MR. REISSMAN: Absolutely.

2 THE COURT: Okay. I think you said --

3 MR. REISSMAN: They were --

4 THE COURT: -- in your post-trial motion, the one  
5 that gave rise to the obvious ethical violation, that you  
6 were representing all three defendants.

7 MR. REISSMAN: Initially, that was my conception.

8 THE COURT: Okay. You need to decide -- and I  
9 think you need to speak to an ethics expert, perhaps, and you  
10 need to consult the Rules of Professional Responsibility very  
11 closely. You need to decide who you represent right now.  
12 And if you don't represent the individual defendants anymore,  
13 then question 2 is -- well, 2A is, have you let them know  
14 that that they no longer have lawyers? And question 2B is,  
15 to the extent you might be -- might be even arguably asking  
16 for some relief that is inconsistent with their interests, do  
17 they need to have their own lawyers appointed by the County  
18 who are not you? Okay. So get back to me within a week,  
19 please, on the answers to those questions.

20 MR. REISSMAN: Will those precise questions be  
21 issued in an order that I can review on ECF? Because  
22 otherwise, I'll write them down right now.

23 THE COURT: You should be writing down everything I  
24 say right now.

25 MR. REISSMAN: Okay.

1                   THE COURT: See this was one of the problems at  
2 trial was that we paused regularly for you to ask me how you  
3 should litigate the case. That's not why I'm here. Okay.  
4 I'm not really here to field questions from the County  
5 Attorney's Office. I'm here to manage the trial. And to the  
6 extent I ask you to do things, you're here to take notice of  
7 what it is I'm asking you to do and take notes on that  
8 irrespective of what the docket order might say or the minute  
9 entry might say at the end of the day. That's your role not  
10 mine.

11                  MR. REISSMAN: May I respectfully ask the Court to  
12 repeat the --

13                  MR. ADAMS: Can we order the minutes?

14                  THE COURT: Of course you can order the minutes.

15                  MR. ADAMS: All right. Let's get the minutes.

16                  MR. REISSMAN: Okay.

17                  THE COURT: But for the sake of clarity, like, let  
18 me just repeat this now so that if I'm not being clear, you  
19 can ask me any clarifying questions you want. Do you still  
20 represent the individual defendants? If not, when did that  
21 representation cease? Do the individual defendants know if  
22 the representation has ceased? But you're not writing  
23 anything down, so I'm not --

24                  MR. REISSMAN: Oh, well, we're going to get record.

25                  THE COURT: You're going to get the record?

1 MR. ADAMS: We're going to order the record.

2 THE COURT: All right. Do the individual  
3 defendants know that they are now unrepresented in connection  
4 with this case? And do the individual defendants in the  
5 County's view need their own counsel in connection with any  
6 post-trial motion practice here? Those are the four  
7 questions we need to, I think, sort out in the first  
8 instance. A second question -- or a second wave of questions  
9 I have is, to the extent that your motion to amend or vacate  
10 the verdict is predicated on some ostensible inconsistency in  
11 the verdict, I'm not seeing it. It may be that I just  
12 haven't delved deeply enough into this and that I will see  
13 the inconsistency that you see later, but as I sit here now,  
14 I doubt it. And I doubt it based on what I just read to you  
15 from instruction number 17.

16 And so that raises the question, to the extent your  
17 Rule 59 motion does not succeed, will there be any  
18 proceedings in respect of remittitur in this case? I don't  
19 know that I've set a deadline. Did I ever set a deadline for  
20 post-trial motions such that that deadline has now passed, or  
21 should I lock that down now?

22 MR. RICKNER: In fairness, I believe the Federal  
23 Rules set a deadline for post-trial motions, which has now  
24 passed.

25 THE COURT: Okay. So we're not having remittitur

1 briefing in this case. Is that then the upshot?

2 MR. RICKNER: That would be Plaintiff's position.

3 Yes. And I believe that's consistent with Rule 59, which, if  
4 memory serves, has a 30-day -- I believe it's 30  
5 days -- might be 21.

6 THE COURT: So is the motion that came in last  
7 night out of time? I think I was advised that the only thing  
8 that was going to change in connection with this motion was  
9 that it was going to be made on different party -- on behalf  
10 of different parties but that we now have a motion that is  
11 predicated on a different legal theory. Is that -- well, you  
12 tell me. What motions are live in the plaintiff's view, and  
13 what are late filed?

14 MR. RICKNER: So I guess I expected to see a motion  
15 that was essentially on behalf of Nassau only and then went  
16 through and crossed out the words new trial in every part of  
17 the brief, which essentially would leave the same motion  
18 except only leaving the relief that they're currently seeking  
19 because I did understand their initial motion as seeking to  
20 essentially secure a full dismissal or in the alternative, a  
21 new trial. The motion papers that I have I would say are  
22 somewhat of a mélange of the reply brief and the initial  
23 moving brief. I reviewed it. I did a comparison.

24 We have 84 replacements, 16 insertions, and 63  
25 deletions. And if you look at it on Adobe in the comparison,

1 it's a bit dizzying, but clearly, some of the paragraphs are  
2 almost entirely new. Some of them aren't changed at all.  
3 Some of them are what I would call somewhat improved versions  
4 of prior things.

5                 But sifting through all of that, I think we still  
6 have roughly the same motion that we had before just removing  
7 two of the parties in the new trial. And I would say since  
8 it's an amendment of the prior motion that was made, I don't  
9 see how that would be time limited. I read Your Honor's  
10 order saying put this up on the docket as in effect granting  
11 the letter motion to amend, which they now have. Plaintiff  
12 has no objection to this amendment since it's less than  
13 before.

14                 THE COURT: I expected deletions but not additions,  
15 essentially. It sounds like we got some of each, but you may  
16 well be right that this is at least the same legal theory  
17 that's being pursued pursuant to the same Rules of Civil  
18 Procedure and therefore, it should be deemed, I guess, to  
19 relate back in its entirety to the earlier filing.

20                 So the plaintiff's position you just heard is that  
21 the motion that came in last night, no part of it are they  
22 arguing now should be stricken or barred based on a time  
23 limit. I would've expected -- and again, I'm just giving you  
24 my preliminary reaction here. It's not for me to tell you  
25 what your legal strategy should be. But my preliminary read

1 of the inconsistency argument is that for precisely the  
2 reasons laid out in instruction 17, this is not an  
3 inconsistent verdict.

4 I would have expected some litigation in respective  
5 remittitur because \$4.5 million is a big number at least to  
6 me. I don't know exactly what the budget of the County of  
7 Nassau is, but \$4.5 million can pay for a lot of services for  
8 county residents. And you know, without prejudging anything,  
9 obviously, I was at least half expecting that a motion for  
10 remittitur would've been forthcoming. The plaintiff you just  
11 heard articulate the view that any such motion filed now  
12 would be untimely, and that may well be correct. Just so I  
13 understand where this case is going, is it correct that you  
14 have no intention of pursuing remittitur?

15 MR. REISSMAN: May we have a moment, Your Honor?

16 THE COURT: Please.

17 (Counsel confer)

18 MR. REISSMAN: Judge Adams is wondering if the  
19 parties could conference separately with Your Honor at this  
20 time, which we did have a settlement conference with  
21 Magistrate Bloom couple weeks ago, and she did take each side  
22 in turn. We were authorized at that time to offer 99,000 --

23 MR. RICKNER: Objection.

24 THE COURT: Yeah. There's a reason that settlement  
25 conferences happen with the Magistrate Judge instead of me,

1 and I'd like to continue that separation in effect. I don't  
2 know what happened in front of Judge Bloom in respective  
3 settlement negotiations for which I was not present. I see a  
4 lot of activity on the docket, which suggests to me that  
5 Chief Judge Bloom tried her level best to broker a  
6 post-verdict disposition here. If I had to guess, I would  
7 say that the fact that there was not even a motion pending  
8 for remittitur -- you understand what I mean when I say a  
9 motion for remittitur?

10 MR. REISSMAN: Yes, Your Honor.

11 THE COURT: Okay. So the fact that there was not  
12 even such a motion pending, I would guess, would inhibit the  
13 willingness on the part of the plaintiff to settle for  
14 anything less than the full amount of the verdict. But I  
15 wasn't there, so I don't know, and obviously, I can't read  
16 anyone else's mind. That's why I asked, did you ever -- did  
17 you still have any intention to file such a motion, and do  
18 you believe that that motion should be entertained despite  
19 the timeliness issue that you just heard articulated by the  
20 plaintiffs here?

21 (Counsel confer)

22 THE CLERK: Could I get you on the microphone?

23 MR. ADAMS: Oh, I'm sorry. Having been a judge for  
24 35 years in the 2nd Department, you know, I've conferred  
25 with Judge Azrack out in Suffolk with numbers. You can't

1 entertain a settlement conference or a --

2 THE COURT: There's no reason why I couldn't.

3 MR. ADAMS: It's up to you.

4 THE COURT: Yeah. So I understand the objection  
5 here. Judges are more hesitant to get involved in settlement  
6 negotiations in bench trials, for obvious reasons where they  
7 function as the finder of fact, than judges are in the jury  
8 trial context in which we find ourselves here. I don't think  
9 it's -- there's an absolute prohibition on me discussing  
10 settlement negotiations.

11 But, two things, A, as a prerequisite to that, I  
12 would have to know that both parties wanted to engage in  
13 settlement negotiations with me, and I don't know yet that  
14 the plaintiffs want to do that, and two, I don't see the  
15 point in dedicating a lot of time to that when the verdict is  
16 all but a certainty at this stage. If there was a pending  
17 motion for remittitur and therefore, there was a real risk  
18 for the plaintiffs that the \$4.5 million verdict was going to  
19 be cut down meaningfully, then I would think that would  
20 create a substantial incentive on the part of the plaintiffs  
21 to come to the settlement negotiation table. As of now,  
22 there is no such motion pending, and it may be that that  
23 motion is out of time. And if that's the case, then why  
24 would the plaintiffs agree to anything, right? So let's not  
25 waste all of our time, is the upshot, I think.

1 (Counsel confer)

2 MR. REISSMAN: May I suggest that if plaintiff  
3 agrees to -- and the Court allows the defendants to make a  
4 remittitur motion at this point, defendants will make such  
5 motion if Plaintiff accepts -- agrees to and if Judge accepts  
6 the ability for defendants to make a remittitur motion.

7 MR. RICKNER: This may come as an enormous  
8 surprise, Your Honor, but Plaintiff does not agree.

9 THE COURT: Right. So there's no reason why the  
10 plaintiffs would consent to that, at least that I can think  
11 of. It may be that there is some cause and prejudice-type  
12 analysis that you could argue that would allow you to file  
13 such a motion out of time. I doubt it, but I don't know one  
14 way or the other. That's why we're here today is to try to  
15 tee-up the path forward, and that's why I'm asking you, let  
16 me know, also within a week, what your position is with  
17 respect to a motion for remittitur, whether you intend to  
18 file one and whether you believe it should be considered  
19 notwithstanding the untimeliness argument that the plaintiff  
20 has made and site case law from the Second Circuit or U.S.  
21 Supreme Court in support of your position, and you know, I'll  
22 let you know whether we would entertain such a motion or not.

23 I don't know that there's interplay necessarily  
24 between the representation issues and the remittitur motion  
25 issue. I don't think there is, but you'll think about

1 whether you need to take account of one in connection with  
2 establishing your position on the other.

3 MR. REISSMAN: Judge, as far as timing goes, today  
4 is Tuesday. Next week, I will be out Monday -- next week, I  
5 will be out Monday, Tuesday, and Wednesday for Passover and  
6 the following Monday and Tuesday for Passover, and I have to  
7 get the transcript first. I, therefore, respectfully request  
8 that defendant's respond to Your Honor's directions no later  
9 than Friday, May 10th. That's realistic.

10 THE COURT: Friday, May 10th. Let me just look at  
11 a calendar. So you're traveling?

12 MR. REISSMAN: No. In observance of Passover,  
13 Orthodox Judaism requires that we do not work on --

14 THE COURT: For the full eight days.

15 MR. REISSMAN: No, first two days and last two  
16 days.

17 THE COURT: Okay.

18 MR. REISSMAN: The middle days you can work, but --

19 THE COURT: Got it.

20 MR. REISSMAN: -- it's going to be very tight. I  
21 do have two conferences the Thursday and Friday after the  
22 first two days.

23 THE COURT: Yeah. May 10th is fine.

24 MR. REISSMAN: Thank you, Your Honor.

25 THE COURT: And then the plaintiffs can respond or

1 not respond on the representation point. I think we've teed  
2 that up pretty well. I imagine you do want to be heard on  
3 the question of whether an untimely motion for remittitur  
4 should be entertained, and you should do that by May 24th.

5 MR. RICKNER: I was going to say the 17th would've  
6 been fine.

7 THE COURT: All right. Then the 17th.

8 MR. RICKNER: And as to whether or not in response  
9 to the representation issue will just depend on whether or  
10 not I agree with what Mr. Reissman ultimately puts in. I  
11 would like, perhaps, something like the 24th or at least  
12 after this next round of briefing to put in a response to the  
13 current motion or a letter that says I stand on my current  
14 briefs. I don't want to be in a position where ultimately  
15 I'm in front of the Circuit, I've got a renewed motion, I  
16 haven't put in an objection to some sort of thing, and I end  
17 up getting jammed up later, so I really need to spend some  
18 time with the brief and see if I have to retool my prior  
19 filing to --

20 THE COURT: Yeah. I was going to ask for your  
21 response to any defense motions to be filed all at once and  
22 so therefore to know whether we're dealing with just this  
23 Rule 59 motion or whether there's a remittitur motion pending  
24 specifically as well, and then, you know, you'll get 25 pages  
25 on the whole thing or more if you need them and ask for them.

1                   MR. RICKNER: Understood, Your Honor. At which  
2 point, then we'll just wait for timing on briefing with  
3 respect to the current filed motion until after you decide  
4 based on whatever is done briefing on the 17th.

5                   THE COURT: Right. Yeah. If there's going to be  
6 no remittitur motion, then we'll just move to schedule your  
7 response and an ultimate reply, if necessary.

8                   MR. RICKNER: Excellent. Because I think --

9                   THE COURT: Otherwise, we'll do the whole thing at  
10 once.

11                  MR. RICKNER: I think under the Default Rule, I  
12 would only have 14 days but --

13                  THE COURT: Yeah. If that's the deadline, that  
14 deadline is stayed until we figure out what other  
15 post-verdict motion or motions, if any, will be forthcoming  
16 from the defense.

17                  MR. RICKNER: Thank you, Your Honor.

18                  THE COURT: Anything else from the plaintiff's side  
19 before we adjourn today?

20                  MR. RICKNER: No, Your Honor.

21                  THE COURT: All right.

22                  MR. REISSMAN: I'd like to clarify ordering the  
23 record.

24                  MR. ADAMS: We have to order the record.

25                  THE COURT: You don't need me for that.

1 MR. REISSMAN: I'll talk to the clerk.

2 THE COURT: I think you have a conversation --

3 MR. REISSMAN: I'll talk to the clerk. Yes.

4 THE COURT: Anything else substantively from the  
5 defense side or procedurally?

6 MR. REISSMAN: Nothing, Your Honor.

7 THE COURT: All right. My thanks again to the  
8 county attorney himself. As a child of Nassau County, I --

9 MR. ADAMS: Freeport, I understand.

10 THE COURT: Born in Freeport but mostly raised in  
11 Port Washington.

12 Thank you, all. We'll be in touch.

13 (Proceedings adjourned at 4:44 p.m.)

14

15

16 TRANSCRIBER'S CERTIFICATE

17 I certify that the foregoing is a correct  
18 transcript from the electronic sound recording of the  
19 proceedings in the above-entitled matter.

20

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April 17, 2024

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*Natalie C. Webb*

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\_\_\_\_\_  
Natalie C. Webb

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DATE

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Legal Transcriber